

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and
Petition to Revoke Probation of:

STEVEN J. CAPOBIANCO, M.D.,

Respondent.

NO. D-1981

L-14174

DECISION

The Division of Medical Quality non-adopted a proposed decision rendered in this matter and proceeded to decide the case itself on the record, including the transcript. Written arguments were submitted by the parties pursuant to notice giving them this opportunity.

Having reviewed the matter, the Division makes the following decision:

Except as to the proposed penalty order which is amended in its entirety as shown below, the Division adopts the attached proposed decision dated October 11, 1977 of Panel 3 of District 11, Medical Quality Review Committee, as to all other matters including all Findings of Fact and Determination of Issues. The Division has determined that prior discipline has not impressed upon respondent the seriousness of his misconduct nor his need to comply with the conditions of probation.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate No. A-20560 issued to respondent Steven J. Capobianco, M.D. is revoked pursuant to Determination of Issues I and II, separately and severally. The stay imposed

against the revocation of respondent's certificate in the prior case No. D-1537 is terminated pursuant to Determination of Issues III and IV, and respondent's certificate is also revoked for that independent cause.

This Decision shall become effective on September 14, 1978

SO ORDERED August 15, 1978

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE

By Michael J. Carella
Michael J. Carella, Ph.D.
Secretary-Treasurer

FL:jw

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and
Petition to Revoke Probation of:

STEVEN J. CAPOBIANCO, M.D.,

Respondent.

NO. D-1981

L-14174

PROPOSED DECISION

This matter came on regularly for hearing before Panel 3 of District 11, Medical Quality Review Committee, a quorum being present, at Los Angeles, California, on October 12, 1977. Milford A. Maron, Administrative Law Judge of the Office of Administrative Hearings, presided. Antonio J. Merino, Deputy Attorney General, appeared on behalf of the Complainant. The respondent appeared in person and was represented by his attorney, Richard Caballero, Esq. Evidence both oral and documentary having been received, the matter was submitted and the Medical Quality Review Committee finds the following facts:

I

Joseph P. Cosentino, M.D., made the Accusation and Petition to Revoke Probation in his official capacity as the Acting Executive Officer of the Board of Medical Quality Assurance of the State of California.

II

A. On or about July 1, 1963, the Board of Medical Examiners (predecessor to the Board of Medical Quality Assurance) issued to Steven J. Capobianco, respondent, physician's and surgeon's certificate No. A-20560. Respondent has been at all times mentioned herein, and now is, licensed to practice medicine in the State of California.

B. Effective January 15, 1976, in case No. D-1537, the predecessor Board revoked respondent's certificate with revocation stayed, and respondent was placed on probation on certain terms, for a period of ten years. Conditions 1 and 7 of respondent's probation are as follows:

"1. Respondent shall comply with all laws of the United States and of the State of California and its political subdivisions and all rules and regulations of the Board of Medical Examiners of the State of California.

". . . .

"7. The use of any federal narcotic permits issued to respondent shall be restricted to class 4 of the DEA schedule."

C. On or about December 24, 1970, in case No. D-1203, respondent's certificate was revoked by the predecessor Board with revocation stayed, and respondent placed on probation, on certain terms and conditions for a period of five years.

III

For the period November 18, 1975 through August 31, 1976, respondent was registered with the Drug Enforcement Administration in drug Schedule IV, only as a result of his having been ordered by the predecessor Board, as a condition of probation in case No. D-1537, to surrender his additional federal narcotic privileges. During said period, and notwithstanding the fact that respondent was registered in drug Schedule IV only, he nevertheless prescribed the following controlled substances which are listed in Schedules II and III, and which were filled at the noted pharmacies in Glendale, California:

DENNIS PHARMACY

<u>Year</u>	<u>Number</u>	<u>Type</u>
<u>1976</u>		
1-6	207097	Eskatrol ^{1/}
1-13	N-207320	Dexamyl ^{1/}
1-15	207384	Eskatrol
2-3	208038	Eskatrol
2-5	208177	Eskatrol
3-4	209346	Eskatrol
3-9	209524	Eskatrol
3-19	209995	Dexamyl
3-26	210372	Eskatrol ^{1/}
4-2	210586	Desoxyn ^{1/}
4-14	210965	Eskatrol
4-15	211040	Eskatrol
5-11	212154	Eskatrol

^{1/} Biphethamine, desoxyn, dexedrine, dexamyl, and eskatrol are controlled substances pursuant to Section 11055(d) of the Health and Safety Code. (Schedule II.)

<u>Year</u>	<u>Number</u>	<u>Type</u>
<u>1976</u>		
5-14	N-212293	Eskatrol
5-27	212881	Ritalin 2/
6-10	213289	Eskatrol
6-14	213388	Eskatrol
6-29	214033	Dexamyl
7-8	214429	Eskatrol
7-14	214613	Eskatrol
7-28	215107	Nembutal 3/
8-6	215430	Eskatrol
8-9	215450	Eskatrol
8-17	215764	Eskatrol

JEWEL CITY PHARMACY

<u>Year</u>	<u>Number</u>	<u>Type</u>
<u>1976</u>		
1-5	730076	Nembutal
1-6	730116	Dexamyl
1-6	730130	Biphetamine 1/
1-6	730133	Biphetamine
1-7	730149	Dexedrine 1/
1-14	730322	Biphetamine
1-20	730447	Dexamyl
1-20	730476	Nembutal
1-29	730681	Dexedrine
1-30	730708	Ritalin
1-30	730700	Dexamyl
2-10	730922	Biphetamine 2/
2-11	730939	Seconal
2-11	730974	Eskatrol
2-13	730996	Biphetamine
2-13	731000	Dexedrine
2-16	731047	Biphetamine
2-16	731048	Eskatrol
2-17	731074	Dexamyl
2-23	731251	Nembutal
2-26	731362	Dexamyl
2-27	731405	Desoxyn
3-2	731504	Biphetamine

2/ Ritalin is a controlled substance pursuant to Section 11055(d)(4) of the Health and Safety Code. (Schedule II.)

3/ Nembutal, seconal and tuinal are controlled substances pursuant to Section 11056(b)(1) of the Health and Safety Code. (Schedule III.)

<u>Year</u>	<u>Number</u>	<u>Type</u>
1976		
3-3	731527	Biphetamine
3-5	731583	Dexamyl
3-8	731605	Nembutal
3-8	731622	Biphetamine
3-9	731642	Ritalin
3-15	731753	Ritalin
3-18	731847	Biphetamine
3-19	731879	Dexamyl
3-25	732059	Tuinal 3/
3-29	731494	Dexamyl
4-2	732175	Seconal
4-14	732473	Ritalin
4-13	732586	Eskatrol
4-19	732567	Eskatrol
4-20	732623	Biphetamine
4-21	732641	Dexamyl
4-26	732784	Eskatrol
4-27	732811	Tuinal
5-13	733234	Eskatrol
5-17	733268	Nembutal
5-19	733314	Dexamyl
5-20	733343	Biphetamine
5-20	733352	Dexedrine
5-21	733392	Seconal
5-26	733500	Tuinal
6-3	733703	Ritalin
6-3	733723	Tuinal
6-4	733739	Biphetamine
6-8	733803	Nembutal
6-11	733886	Biphetamine
6-16	734008	Quaalude 4/
6-16	734007	Dexamyl
6-17	734028	Dexedrine
6-17	734020	Nembutal
6-24	734186	Nembutal
6-28	734252	Ritalin
7-1	734350	Biphetamine
7-6	734391	Desoxyn
7-8	734478	Biphetamine
7-8	734500	Desoxyn
7-9	734508	Nembutal
7-13	734589	Eskatrol
7-14	734615	Quaalude
7-15	734626	Dexamyl
7-19	734688	Ritalin

4/ Quaalude is a controlled substance pursuant to Section 11056(b)(6) of the Health and Safety Code. (Schedule III.)

<u>Year</u>	<u>Number</u>	<u>Type</u>
1976		
7-19	734699	Tuinal
7-20	734573	Biphetamine
7-20	734757	Biphetamine
7-22	734805	Dexedrine
8-3	735195	Desoxyn
8-10	735255	Dexedrine
8-16	735386	Biphetamine
8-18	735450	Quaalude
8-24	735604	Eskatrol
8-25	735617	Dexedrine

IV

A. On or about January 31, 1977, in the Municipal Court of Glendale Judicial District, in the County of Los Angeles of the State of California, in a case entitled "People v. Steven J. Capobianco, M.D.," case No. M 58655, respondent was convicted on his plea of guilty of prescribing controlled substances on August 3 and 10, 1976, a violation of Section 11155 of the Health and Safety Code.

B. The events found to exist in Finding III were the underlying facts involved in said conviction.

* * * * *

Pursuant to the foregoing findings of fact, Panel 3 of District 11, Medical Quality Review Committee, makes the following determination of issues:

I

Respondent is guilty of unprofessional conduct pursuant to Sections 2391.5, 2360 and 2361 of the Business and Professions Code, in that he has violated Section 11155 of the Health and Safety Code by virtue of the matters found as true in Finding III, above.

II

Respondent is guilty of unprofessional conduct pursuant to Sections 2360, 2361, and 490 of the Business and Professions Code, within the meaning of Section 2384 of the Business and Professions Code, in that he has violated Section 11155 of the Health and Safety Code by virtue of the matters found as true in Finding IV, above.

III

Respondent has failed to comply with the terms and conditions of probation in case No. D-1537 by virtue of the matters set forth in Findings III and IV, above.

IV

Cause exists to revoke respondent's probation in case No. D-1537 and independent cause exists to suspend or revoke respondent's license pursuant to Sections 2360 and 2361 of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's physician's and surgeon's certificate is revoked for each of the causes set forth in the above determination of issues, separately and severally; provided, however, execution of this order of revocation is hereby stayed and respondent's probation in case No. D-1537 is continued unmodified, but for the following added terms and conditions:

8. Respondent shall not engage in any activity requiring licensure for a period of ninety (90) days;

9. Respondent shall commence or continue psychotherapy and remain under the supervision and direction of a psychiatrist of his own choosing until said psychiatrist shall discharge respondent as cured; while respondent is under the care of a psychiatrist, respondent shall provide that said psychiatrist shall render semi-annual reports to the Division of Medical Quality at its Sacramento Office as to the progress of respondent in his rehabilitation from his problem; the first report shall be due January 2, 1978.

10. Respondent shall practice his profession only in a structured and supervised environment which must first be approved by the Division of Medical Quality, before respondent may accept such employment. Should respondent change his place of employment during the period of probation, he must first secure the written permission of the Division of Medical Quality. Respondent shall furnish each employer a copy of this Decision.

* * * * *

In the event respondent does not comply with any of the conditions of his existing probation, the stay shall be lifted and the order of revocation shall become immediately effective. In the event respondent does comply with all of the terms and conditions of his existing probation, his license shall be fully restored at the conclusion of the period of probation.

BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
DISTRICT 11, MEDICAL QUALITY REVIEW
COMMITTEE

Marsha Epstein, M.D.
MARSHA EPSTEIN, M.D.
Chairperson of Panel 3

DATED: Oct. 15, 1977
MAM:mh

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and)
Petition to Revoke Probation of:)
STEVEN J. CAPOBIANCO, M.D.,)
Respondent.)

NO. D-1981

L-14174

NOTICE OF NON-ADOPTION OF PROPOSED DECISION

(Pursuant to Section 11517 of the Government Code)

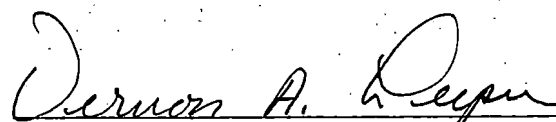
TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that the Division of Medical Quality of the Board of Medical Quality Assurance of the State of California has decided not to adopt the attached proposed decision, rendered by a panel of a Medical Quality Review Committee, and dated October 15, 1977. You are also notified that the Division of Medical Quality will decide the case upon the record, including the transcript and without the taking of additional evidence. You are hereby afforded the opportunity to present written argument to the Division of Medical Quality, if you desire to do so, by filing such written argument with the Division at its office at 1430 Howe Avenue, Sacramento, California 95825, and the same opportunity is afforded the Attorney General of the State of California.

You will be notified of the date for submission of such written argument when the transcript of the administrative hearing becomes available.

DATED: March 9, 1978

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE


VERNON A. LEEPER, Program Manager
Enforcement Unit

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and
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I

Joseph P. Cosentino, M.D., made the Accusation and Petition to Revoke Probation in his official capacity as the Acting Executive Officer of the Board of Medical Quality Assurance of the State of California.

II

A. On or about July 1, 1963, the Board of Medical Examiners (predecessor to the Board of Medical Quality Assurance) issued to Steven J. Capobianco, respondent, physician's and surgeon's certificate No. A-20560. Respondent has been at all times mentioned herein, and now is, licensed to practice medicine in the State of California.

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"1. Respondent shall comply with all laws of the United States and of the State of California and its political subdivisions and all rules and regulations of the Board of Medical Examiners of the State of California.

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"7. The use of any federal narcotic permits issued to respondent shall be restricted to class 4 of the DEA schedule."

C. On or about December 24, 1970, in case No. D-1203, respondent's certificate was revoked by the predecessor Board with revocation stayed, and respondent placed on probation, on certain terms and conditions for a period of five years.

III

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2-5	208177	Eskatrol
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3-9	209524	Eskatrol
3-19	209995	Dexamyl
3-26	210372	Eskatrol ^{1/} _{1/}
4-2	210586	Desoxyn ^{1/} _{1/}
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4-15	211040	Eskatrol
5-11	212154	Eskatrol

^{1/} Biphentamine, desoxyn, dexedrine, dexamyl, and eskatrol are controlled substances pursuant to Section 11055(d) of the Health and Safety Code. (Schedule II.)

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8-6	215430	Eskatrol
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8-17	215764	Eskatrol

JEWEL CITY PHARMACY

<u>Year</u>	<u>Number</u>	<u>Type</u>
1976		
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2-23	731251	Nembutal
2-26	731362	Dexamyl
2-27	731405	Desoxyn
3-2	731504	Biphetamine

2/ Ritalin is a controlled substance pursuant to Section 11055(d)(4) of the Health and Safety Code. (Schedule II.)

3/ Nembutal, seconal and tuinal are controlled substances pursuant to Section 11056(b)(1) of the Health and Safety Code. (Schedule III.)

<u>Year</u> <u>1976</u>	<u>Number</u>	<u>Type</u>
3-3	731527	Biphetamine
3-5	731583	Dexamyl
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3-8	731622	Biphetamine
3-9	731642	Ritalin
3-15	731753	Ritalin
3-18	731847	Biphetamine
3-19	731879	Dexamyl
3-25	732059	Tuinal 3/
3-29	731494	Dexamyl
4-2	732175	Seconal
4-14	732473	Ritalin
4-13	732586	Eskatrol
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4-26	732784	Eskatrol
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6-8	733803	Nembutal
6-11	733886	Biphetamine
6-16	734008	Quaalude 4/
6-16	734007	Dexamyl
6-17	734028	Dexedrine
6-17	734020	Nembutal
6-24	734186	Nembutal
6-28	734252	Ritalin
7-1	734350	Biphetamine
7-6	734391	Desoxyn
7-8	734478	Biphetamine
7-8	734500	Desoxyn
7-9	734508	Nembutal
7-13	734589	Eskatrol
7-14	734615	Quaalude
7-15	734626	Dexamyl
7-19	734688	Ritalin

4/ Quaalude is a controlled substance pursuant to Section 11056(b)(6) of the Health and Safety Code. (Schedule III.)

<u>Year</u>	<u>Number</u>	<u>Type</u>
1976		
7-19	734699	Tuinal
7-20	734573	Biphetamine
7-20	734757	Biphetamine
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8-3	735195	Desoxyn
8-10	735255	Dexedrine
8-16	735386	Biphetamine
8-18	735450	Quaalude
8-24	735604	Eskatrol
8-25	735617	Dexedrine

IV

A. On or about January 31, 1977, in the Municipal Court of Glendale Judicial District, in the County of Los Angeles of the State of California, in a case entitled "People v. Steven J. Capobianco, M.D.," case No. M 58655, respondent was convicted on his plea of guilty of prescribing controlled substances on August 3 and 10, 1976, a violation of Section 11155 of the Health and Safety Code.

B. The events found to exist in Finding III were the underlying facts involved in said conviction.

* * * * *

Pursuant to the foregoing findings of fact, Panel 3 of District 11, Medical Quality Review Committee, makes the following determination of issues:

I

Respondent is guilty of unprofessional conduct pursuant to Sections 2391.5, 2360 and 2361 of the Business and Professions Code, in that he has violated Section 11155 of the Health and Safety Code by virtue of the matters found as true in Finding III, above.

II

Respondent is guilty of unprofessional conduct pursuant to Sections 2360, 2361, and 490 of the Business and Professions Code, within the meaning of Section 2384 of the Business and Professions Code, in that he has violated Section 11155 of the Health and Safety Code by virtue of the matters found as true in Finding IV, above.

III

Respondent has failed to comply with the terms and conditions of probation in case No. D-1537 by virtue of the matters set forth in Findings III and IV, above.

IV

Cause exists to revoke respondent's probation in case No. D-1537 and independent cause exists to suspend or revoke respondent's license pursuant to Sections 2360 and 2361 of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's physician's and surgeon's certificate is revoked for each of the causes set forth in the above determination of issues, separately and severally; provided, however, execution of this order of revocation is hereby stayed and respondent's probation in case No. D-1537 is continued unmodified, but for the following added terms and conditions:

8. Respondent shall not engage in any activity requiring licensure for a period of ninety (90) days;

9. Respondent shall commence or continue psychotherapy and remain under the supervision and direction of a psychiatrist of his own choosing until said psychiatrist shall discharge respondent as cured; while respondent is under the care of a psychiatrist, respondent shall provide that said psychiatrist shall render semi-annual reports to the Division of Medical Quality at its Sacramento Office as to the progress of respondent in his rehabilitation from his problem; the first report shall be due January 2, 1978.

10. Respondent shall practice his profession only in a structured and supervised environment which must first be approved by the Division of Medical Quality, before respondent may accept such employment. Should respondent change his place of employment during the period of probation, he must first secure the written permission of the Division of Medical Quality. Respondent shall furnish each employer a copy of this Decision.

* * * * *

In the event respondent does not comply with any of the conditions of his existing probation, the stay shall be lifted and the order of revocation shall become immediately effective. In the event respondent does comply with all of the terms and conditions of his existing probation, his license shall be fully restored at the conclusion of the period of probation.

BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
DISTRICT 11, MEDICAL QUALITY REVIEW
COMMITTEE

Marsha Epstein, M.D.
MARSHA EPSTEIN, M.D.
Chairperson of Panel 3

DATED: Oct. 15, 1977
MAM:mh

EVELLE J. YOUNGER, Attorney General
 ANTONIO J. MERINO
 Deputy Attorney General
 800 Tishman Building
 3580 Wilshire Boulevard
 Los Angeles, California 90010
 Telephone: (213) 736-2009
 Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY
 BOARD OF MEDICAL QUALITY ASSURANCE
 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA

In the Matter of the Accusation
 Against:

STEVEN J. CAPOBIANCO, M.D.,
 Respondent.

NO. D-1981

ACCUSATION AND PETITION
 TO REVOKE PROBATION

Complainant alleges as follows:

1. Complainant, Joseph P. Cosentino, M.D., is the Acting Executive Director of the Board of Medical Quality Assurance (hereinafter referred to as the "Board"), and makes and files this accusation and petition to revoke probation in his official capacity as such, and not otherwise.

2. On or about July 1, 1963, the Board of Medical Examiners (predecessor to the Board) issued to Steven J. Capobianco (hereinafter referred to as "respondent"), physician's and surgeon's certificate No. A-20560. Respondent has been at all times mentioned herein, and now is, licensed to practice medicine in the State of California, except as set forth herein below.

A. Effective January 15, 1976, in case No. D-1537, respondent's certificate was revoked with revocation stayed, and respondent was placed on probation on

1 certain terms, for a period of ten years. Attached
2 hereto and incorporated herein as "Exhibit A" is a
3 true and correct copy of the Board's decision in
4 case No. D-1537.

5 B. On or about December 24, 1970, in case
6 No. D-1203, respondent's certificate was revoked
7 with revocation stayed, and respondent placed on
8 probation, on certain terms, for a period of five
9 years. Attached hereto and incorporated herein as
10 "Exhibit B" is a true and correct copy of the Board's
11 decision in case No. D-1203.

12 3. Sections 2360 and 2361 of the Business and
13 Professions Code provide for disciplinary action against a
14 licensee who is guilty of unprofessional conduct.

15 4. Section 2391.5 of the Business and Professions Code
16 provides that the violation of any of the statutes of this state
17 regulating narcotics and dangerous drugs constitutes unprofessional
18 conduct.

19 5. Section 11155 of the Health and Safety Code, a
20 statute of the State of California regulating narcotics and
21 dangerous drugs, provides, in pertinent part, that any physician,
22 who by order of any state or government agency surrenders his
23 controlled substance privileges, shall not possess, administer,
24 dispense, or prescribe a controlled substance unless and until
25 such privileges have been restored, and he has obtained current
26 registration from the appropriate federal agency as provided by
27 law.

28 6. Biphetamine, desoxyn, dexedrine, dexamyl, and
29 eskatrol are controlled substances pursuant to section 11055(d) of
30 the Health and Safety Code. (Schedule II.)
31

1 7. Ritalin is a controlled substance pursuant to
2 section 11055(d)(4) of the Health and Safety Code. (Schedule II.)

3 8. Nembutal, seconal, and tuinal are controlled sub-
4 stances pursuant to section 11056(b)(1) of the Health and Safety
5 Code. (Schedule III.)

6 9. Quaalude is a controlled substance pursuant to
7 section 11056(b)(6) of the Health and Safety Code. (Schedule III.)

8 10. Respondent is subject to disciplinary action
9 pursuant to sections 2391.5, 2360, and 2361 of the Business and
10 Professions Code in that he is guilty of unprofessional conduct in
11 that he has violated section 11155 of the Health and Safety Code.
12 The circumstances are as follows:

13 A. For the period November 18, 1975 through
14 August 31, 1976, respondent was registered with the Drug
15 Enforcement Administration in drug Schedule IV only as a
16 result of his having been ordered by the Board, as a
17 condition of his probation in case No. D-1537, to
18 surrender his additional federal narcotic privileges.

19 B. During that period, notwithstanding the fact
20 that respondent was registered in drug Schedule IV only,
21 nevertheless he prescribed the following controlled sub-
22 stances which are listed in Schedules II and III, and
23 which were filled at the Dennis Pharmacy and the Jewel
24 City Pharmacy in Glendale, California:

25 /

26 /

27 /

28 /

29 /

30 /

31 /

DENNIS PHARMACY

Year
1976

Number

Type

1-6	207097	Eskatrol
1-13	N-207320	Dexamyl
1-15	207384	Eskatrol
2-3	208038	Eskatrol
2-5	208177	Eskatrol
3-4	209346	Eskatrol
3-9	209524	Eskatrol
3-19	209995	Dexamyl
3-26	210372	Eskatrol
4-2	210586	Desoxyn
4-14	210965	Eskatrol
4-15	211040	Eskatrol
5-11	212154	Eskatrol
5-14	N-212293	Eskatrol
5-27	212881	Ritalin
6-10	213289	Eskatrol
6-14	213388	Eskatrol
6-29	214033	Dexamyl
7-8	214429	Eskatrol
7-14	214613	Eskatrol
7-28	215107	Nembutal
8-6	215430	Eskatrol
8-9	215450	Eskatrol
8-17	215764	Eskatrol

/

/

/

/

JEWEL CITY PHARMACY

	<u>Year</u> <u>1976</u>	<u>Number</u>	<u>Type</u>
1			
2			
3			
4	1-5	730076	Nembutal
5	1-6	730116	Dexamy1
6	1-6	730130	Biphetamine
7	1-6	730133	Biphetamine
8	1-7	730149	Dexedrine
9	1-14	730322	Biphetamine
10	1-20	730447	Dexamy1
11	1-20	730476	Nembutal
12	1-29	730681	Dexedrine
13	1-30	730708	Ritalin
14	1-30	730700	Dexamy1
15	2-10	730922	Biphetamine
16	2-11	730939	Seconal
17	2-11	730974	Eskatrol
18	2-13	730996	Biphetamine
19	2-13	731000	Dexedrine
20	2-16	731047	Biphetamine
21	2-16	731048	Eskatrol
22	2-17	731074	Dexamy1
23	2-23	731251	Nembutal
24	2-26	731362	Dexamy1
25	2-27	731405	Desoxyn
26	3-2	731504	Biphetamine
27	3-3	731527	Biphetamine
28	3-5	731583	Dexamy1
29	3-8	731605	Nembutal
30	3-8	731622	Biphetamine
31	3-9	731642	Ritalin

1	3-15	731753	Ritalin
2	3-18	731847	Biphetamine
3	3-19	731879	Dexamyl
4	3-25	732059	Tuinal
5	3-29	731494	Dexamyl
6	4-2	732175	Seconal
7	4-14	732473	Ritalin
8	4-13	732586	Eskatrol
9	4-19	732567	Eskatrol
10	4-20	732623	Biphetamine
11	4-21	732641	Dexamyl
12	4-26	732784	Eskatrol
13	4-27	732811	Tuinal
14	5-13	733234	Eskatrol
15	5-17	733268	Nembutal
16	5-19	733314	Dexamyl
17	5-20	733343	Biphetamine
18	5-20	733352	Dexedrine
19	5-21	733392	Seconal
20	5-26	733500	Tuinal
21	6-3	733703	Ritalin
22	6-3	733723	Tuinal
23	6-4	733739	Biphetamine
24	6-8	733803	Nembutal
25	6-11	733886	Biphetamine
26	6-16	734008	Quaalude
27	6-16	734007	Dexamyl
28	6-17	734028	Dexedrine
29	6-17	734020	Nembutal
30	6-24	734186	Nembutal
31	6-28	734252	Ritalin

1	7-1	734350	Biphetamine
2	7-6	734391	Desoxyn
3	7-8	734478	Biphetamine
4	7-8	734500	Desoxyn
5	7-9	734508	Nembutal
6	7-13	734589	Eskatrol
7	7-14	734615	Quaalude
8	7-15	734626	Dexamyl
9	7-19	734688	Ritalin
10	7-19	734699	Tuinal
11	7-20	734573	Biphetamine
12	7-20	734757	Biphetamine
13	7-22	734805	Dexedrine
14	8-3	735195	Desoxyn
15	8-10	735255	Dexedrine
16	8-16	735386	Biphetamine
17	8-18	735450	Quaalude
18	8-24	735604	Eskatrol
19	8-25	735617	Dexedrine

20 11. Section 2384 of the Business and Professions Code
 21 provides, in pertinent part, that the conviction of a charge of
 22 violation of the statutes of this state, regulating narcotics, or
 23 dangerous drugs, constitutes unprofessional conduct within the
 24 meaning of the State Medical Practice Act and that a plea of
 25 guilty is deemed to be a conviction within the meaning of this
 26 section.

27 12. Section 490 of the Business and Professions Code
 28 provides, in pertinent part, that a board may suspend or revoke a
 29 license on the ground that the licensee has been convicted of a
 30 crime substantially related to the qualifications, functions, or
 31 duties of the profession for which the license was issued.

1 13. Respondent is further subject to disciplinary
2 action pursuant to sections 2360, 2361, and 490 of the Business
3 and Professions Code in that he is guilty of unprofessional con-
4 duct within the meaning of section 2384 of the Business and
5 Professions Code in that he has been convicted of a violation of
6 section 11155 of the Health and Safety Code, which crime is
7 related to the functions, duties, and qualifications of a
8 licensee to practice as a physician and surgeon. The circum-
9 stances are as follows:

10 On or about January 31, 1977, in the Municipal
11 Court of Glendale Judicial District, in the County of
12 Los Angeles of the State of California, in a case
13 entitled "People v. Steven J. Capobianco, M.D.,"
14 case No. M 58655, Steven J. Capobianco, M.D.,
15 following a plea of guilty, was convicted of
16 prescribing controlled substances on August 3 and on
17 August 10, 1976, in violation of section 11155 of the
18 Health and Safety Code. The circumstances surrounding
19 the commission of these crimes are set forth herein-
20 above at paragraph 10, subparagraph C.

21 14. Conditions 1 and 7 of respondent's probation as
22 set forth in Exhibit A are as follows:

23 "1. Respondent shall comply with all laws of the
24 United States and of the State of California and its
25 political subdivisions and all rules and regulations
26 of the Board of Medical Examiners of the State of
27 California.

28 ". . . .

29 "7. The use of any federal narcotic permits
30 issued to respondent shall be restricted to class 4
31 of the DEA schedule."

1 15. Respondent is subject to revocation of his
2 probation in that he has violated conditions 1 and 7 of his pro-
3 bation. The circumstances are as follows:

4 Respondent has prescribed controlled substances
5 from Schedules II and III in violation of section 11155
6 of the Health and Safety Code and has been convicted
7 for a violation thereof as more particularly set forth
8 at paragraph 10, subparagraphs A and B, and paragraph
9 13.

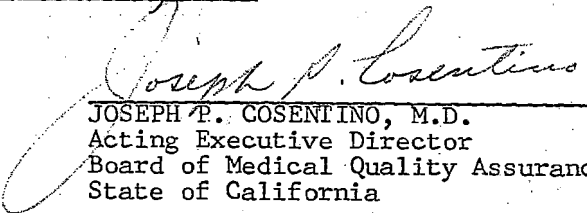
10 WHEREFORE, complainant prays that the Division hold a
11 hearing on the matters alleged herein and following said hearing
12 issue a decision:

13 1. Suspending or revoking the physician's and
14 surgeon's certificate heretofore issued to Steven J. Capobianco,
15 M.D.;

16 2. Revoking the probation imposed on respondent and
17 dissolving the stay on the order of revocation issued by the
18 Board in case No. D-1537; and

19 3. Taking such other action as the Board in its
20 discretion deems proper.

21 DATED: March 29, 1977.

22
23 
24 JOSEPH P. COSENTINO, M.D.
25 Acting Executive Director
26 Board of Medical Quality Assurance
27 State of California

28 Complainant
29
30
31

BOARD OF MEDICAL QUALITY ASSURANCE

DIVISION OF MEDICAL QUALITY ASSURANCE

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

IN THE MATTER OF THE ACCUSATION
AND PETITION TO REVOKE PROBATION
AGAINST:

STEVEN JOSEPH CAPOBIANCO, M.D.
Certificate No. A-20560,

Respondent.

NO. D-1537

L-7351

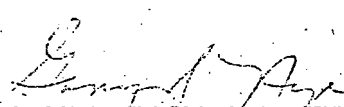
DECISION

The attached Proposed Decision of the Administrative
Law Judge is hereby adopted by the Board of Medical Quality
Assurance as its Decision in the above-entitled matter.

This Decision shall become effective January 15, 1976.

IT IS SO ORDERED December 16, 1975.

By


GARY S. NYE, M.D., CHAIRMAN
DIVISION OF MEDICAL QUALITY ASSURANCE

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE ACCUSATION
AND PETITION TO REVOKE PROBATION
AGAINST:

STEVEN JOSEPH CAPOBIANCO, M.D.

Certificate No. A20560,

Respondent.

NO. D-1537

L-7351

PROPOSED DECISION

This matter came on regularly for hearing before Philip V. Sarkisian, Hearing Officer of the Office of Administrative Hearings, at Los Angeles, California, on May 30, 1975, at 9:00 a.m. The complainant was represented by John M. Huntington, Deputy Attorney General. The respondent appeared in person without counsel. Oral and documentary evidence was introduced and the case was submitted. The Hearing Officer now makes the following findings of fact:

I

Raymond M. Reid is the Executive Secretary of the Board of Medical Examiners of the State of California, hereinafter called the Board, and brought this action in his official capacity.

II

Respondent was duly issued a physician's and surgeon's certificate by the Board on or about July 1, 1963. At all times mentioned herein respondent was and now is licensed to practice medicine in the State of California.

III

On December 24, 1970, respondent's certificate was

revoked by the Board in case No. D-1203. Revocation was stayed and respondent was placed on probation for five (5) years subject to certain terms and conditions. A true copy of the Board's decision in case No. D-1203 is attached to the accusation as Exhibit "A" and is incorporated herein by this reference as though set forth in full.

IV

On or about June 28, 1973, in a proceeding entitled "People of the State of California v. Steven Joseph Copobianco, M.D.", Municipal Court of Glendale Judicial District Case No. M 45392, respondent was convicted by his plea of guilty of two (2) counts of violating Health and Safety Code section 11157, (issuing prescriptions that were false and fictitious). Respondent was thereafter fined the sum of \$300.00 on Count I and sentence was suspended on Count II.

The crime of which respondent was convicted is substantially related to the qualifications, functions and duties of a physician and surgeon.

V

During the period December 13, 1972, to March 5, 1973, respondent wrote and issued approximately 16 prescriptions for demerol, also known as pethidine, a narcotic, in the names of various persons. The prescriptions were false and fictitious in that they were not for the persons named in them but were in each instance actually secured and used by respondent for his own use and self-administration. During this same approximate period of time, respondent administered to himself 150 to 200 mg. of demerol on a daily basis. Some of the self-administration of demerol occurred while respondent was practicing in his office during working hours.

Demerol is a narcotic and a controlled substance as

specified in Health and Safety Code section 11055.

VI

Respondent introduced evidence to establish the following:

A. Respondent complied with the order of probation in case No. D-1203 until June of 1972, when he took demerol to relieve pain from a chronic backache. He stopped using the drug after approximately three (3) weeks because his back problem had cleared up.

In August of 1972, respondent again resorted to the use of demerol to relieve pain in his arm from a neurological problem. Although the pain in his arm eventually subsided, respondent continued using the drug. In February of 1973, respondent voluntarily notified authorities of his use of demerol

B. Respondent is a sole general practitioner. He has modified his practice since 1972 to eliminate obstetrical work. He has more free time and feels less pressured than formerly. He has an informal arrangement with several other physicians to cover evening calls and weekends on a reciprocal basis. The other physicians are aware of respondent's prior use of demerol. They prescribe narcotics for respondent's patients at his request.

C. Respondent remarried in October of 1973. He claims to have resolved the personal problems which contributed to his illegal use of narcotics. Respondent received psychiatric treatment for about two months on a weekly basis in 1973. He believes that the various pressures which led up to his use of drugs have been eliminated. He denies any use of narcotics since February of 1973. He finds his present family and professional situations extremely gratifying and feels no need to use narcotics.

* * * * *

Pursuant to the foregoing findings of fact, the Hearing

Officer makes the following determination of issues:

I

Respondent is guilty of unprofessional conduct as defined in section 2384 of the Business and Professions Code by reason of his conviction of a statute regulating narcotics as set forth in paragraph IV of the above findings of fact.

II

Respondent is guilty of unprofessional conduct as defined in sections 2390 and 2391.5 of the Business and Professions Code in that he has violated sections 11170 and 11157 of the Health and Safety Code and by virtue of the matters set forth in paragraph V of the above findings of fact.

III

Respondent has failed to comply with the terms and conditions of probation in case No. D-1203 by virtue of the matters set forth in paragraphs IV and V of the above findings of fact.

IV

Cause exists to revoke respondent's probation in case No. D-1203 and independent cause exists to suspend or revoke respondent's license pursuant to sections 2360 and 2361 of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent's physician's and surgeon's certificate is revoked for each of the causes set forth in the above determination of issues, separately and severally; provided, however, execution of this order of revocation is hereby stayed and respondent is placed on probation for ten (10) years upon the following terms and conditions:

1. Respondent shall comply with all laws of the

United States and of the State of California and its political subdivisions and all rules and regulations of the Board of Medical Examiners of the State of California.

2. Respondent shall report in person to the Board of Medical Examiners at its regular meetings held in Los Angeles, commencing in 1975, and for each year thereafter during said period of probation, and shall at that time furnish a written report from a physician of his own choice describing his physical and psychological condition, and an opinion upon whether or not respondent is using any dangerous drug or narcotic.

3. Respondent shall initiate and submit to the Board of Medical Examiners at quarterly intervals an affidavit to the effect that he has fully and faithfully complied with all the terms and conditions of the probation imposed herein. The first report shall be due on October 1, 1975.

4. Respondent shall cooperate fully with any representative of the Board of Medical Examiners.

5. Respondent shall submit himself to the Board of Medical Examiners or any of its agents or employees for the purpose of laboratory testing to determine the existence of any drugs in his blood system as the Board of Medical Examiners in its discretion determines. Any laboratory fees incurred because of such testing shall be borne by the respondent.

6. Respondent shall abstain from the use of narcotics, hypnotics or dangerous drugs in any form except when he is a bona fide patient of a physician or surgeon and the drug is lawfully prescribed for him.

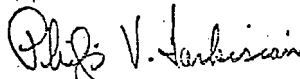
7. The use of any federal narcotic permits issued to respondent shall be restricted to class 4 of the DEA schedule.

In the event respondent does not comply with the terms and conditions of probation hereinabove set forth, the Board of

Medical Examiners, after notice to respondent and opportunity to be heard, may terminate said probation effective immediately or make such other order modifying or changing the terms of probation as it deems just and reasonable in its discretion.

In the event respondent complies with all such terms and conditions, then, upon expiration of the period of probation, the order staying the suspension shall become permanent and respondent's license shall be fully restored.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter, as a result of the hearing had before me on May 30, 1975, at Los Angeles, California, and recommend its adoption as the decision of the Board of Medical Examiners.



PHILIP V. SARKISIAN, Hearing Officer
Office of Administrative Hearings

DATED: July 14, 1975
PVS:vlb

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

STEVEN JOSEPH CAPOBIANCO, M.D.,

Respondent.

NO. D-1203

OLA 23074

DECISION

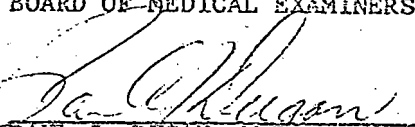
The attached Proposed Decision of District Review
Committee IV is hereby adopted by the Board of Medical Examiners
as its decision in the above-entitled matter.

This decision shall become effective on the 24th day of
September, 1970.

IT IS SO ORDERED this 25th day of August, 1970.

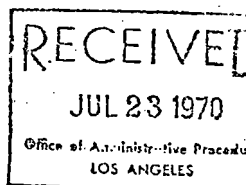
BOARD OF MEDICAL EXAMINERS

By


PAUL J. DUGAN, M.D.
Secretary-Treasurer

WC:ej

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF CALIFORNIA



In the Matter of the Accusation
Against: } NO. D-1203
STEVEN JOSEPH CAPOBIANCO, M.D., } OLA 23074
Respondent. }

PROPOSED DECISION

This matter came on regularly for hearing before District Review Committee IV of the Board of Medical Examiners, William Green, Hearing Officer of the Office of Administrative Procedure presiding, at Los Angeles, California, on May 27, 1970, at the hour of 9:00 a.m. A quorum of the Committee was present and acting, only Member Frederick M. Turnbull, Jr., M.D., being absent. The complainant herein was represented by John M. Huntington, Deputy Attorney General. The respondent appeared in person without representation. Oral and documentary evidence was introduced on behalf of the complainant and oral evidence was introduced by the respondent. The Committee finds the following facts:

I

Wallace W. Thompson made the accusation herein in his official capacity as Executive Secretary of the Board of Medical Examiners of the State of California.

II

On or about July 1, 1963 respondent was issued a physician's and surgeon's certificate by the Board and at all times mentioned herein respondent was and is presently licensed to practice medicine and surgery in California.

III

On September 10, 1969, in the Municipal Court of Glendale Judicial District, County of Los Angeles, State of California, in a proceeding entitled, "The People of the State of California v. Steven Joseph Capobianco", Case No. M 32085, respondent was

convicted on his plea of nolo contendere of a violation of Section 11165, Health and Safety Code of California (issuance of a false or fictitious prescription), a misdemeanor; respondent was sentenced to serve 60 days in the County Jail, the sentence was suspended, and respondent was placed on probation for two years on conditions, including that he pay a fine of \$500.00 plus \$125.00 penalty assessment, continue therapy with a psychiatrist as long as the treating physician may require, submit to a search at the request of a peace officer and refrain from the use of dangerous drugs or narcotics.

IV

During the period 1968 through June, 1969, respondent wrote and issued prescriptions for Demerol, also known as Meperidine, a narcotic, which were false and fictitious in that said prescriptions were not for the use of persons named in said prescriptions but were in each instance actually secured and used by respondent for his own use and self administration as follows:

One prescription in the name of Margaret N. [REDACTED] for 30 cc of Demerol; one prescription in the name of Marilyn S. [REDACTED] for 30 cc of Demerol; six prescriptions in the name of Dorothy T. [REDACTED] for a total of 34 2 cc ampules of Demerol; three prescriptions in the name of Gloria T. [REDACTED] for a total of 12 2 cc ampules of Demerol; one prescription in the name of Gloria C. [REDACTED] for two 2 cc ampules of Demerol; and two prescriptions in the name of Linda B. [REDACTED] for a total of two 30 cc vials of Demerol.

During May and June, 1969, respondent also self administered Demerol obtained by use of Federal Purchase Order Forms in the approximate amount of two and one half 30 cc vials of Demerol.

V

Demerol is also known as Meperidine and is a narcotic specified in Section 11001, Health and Safety Code of California.

VI

Additional evidence was introduced to establish the following:

A. Respondent graduated from California College of Medicine where he was an excellent student, and he entered the general practice of medicine in 1963.

B. In 1966 respondent entered into his only marriage with an attractive actress who had engaged in two prior marriages herself. One child, a daughter now three years of age, was born to this marriage, which was a stormy one due to the mental instability of the wife of respondent. The wife of respondent did not respond well to psychiatric consultations and treatment obtained for her by respondent during the marriage.

C. The bizarre behaviour of his wife caused respondent mental distress and aggravated back trouble he had experienced as an intern. He resorted to the self-use of Demerol in amounts of 50 to 75 mg. before bedtime for pain and distress, commencing about May or June, 1968 and continuing to October, 1968 when respondent discontinued the use of Demerol.

D. A divorce proceeding was instituted by respondent in January, 1969 but was withdrawn by him at the entreaty of his wife, after which she filed a divorce suit against respondent in March, 1969. Respondent resumed the self-use of Demerol in the spring of 1969 and continued until June, 1969 during a period while his wife engaged in harassing him at his home and at his office. In June, 1969 respondent consulted a psychiatrist and entered a psychiatric hospital where he remained for three or four days during which he suffered no physical withdrawal symptoms and experienced no dependency on Demerol. Respondent continued outpatient treatment thereafter with his psychiatrist. He has experienced no mental or physical ills since the dissolution of his marriage and has taken no drugs or medicines of any sort since July of 1969. He has written only one minor Demerol prescription for a patient since he discontinued the self-use of Demerol.

E. Respondent's former wife has now remarried, relieving

respondent of considerable financial stress. Respondent has resumed attending professional meetings and conferences which he had discontinued while he was under stress during his marriage. Respondent is presently on the staffs of three hospitals in the Glendale area. He completed a three month postgraduate course at the University of Southern California in December, 1969, and he has maintained regular attendance at staff meetings and has attended to his practice. He maintains office hours from 9:30 a.m. to 5:30 p.m. four and a half days per week and sees an average of about 25 patients daily, and he is comfortable in his practice.

F. While respondent engaged in the self-use of Demerol, his maximum consumption in any day was four or five cc of 50 mg. per cc, which helped his attitude and seemed to make his problems bearable.

G. Respondent's only remaining stress situation concerns his little daughter who is in the custody of his former wife. Respondent has visitation over which his former wife acts capriciously. Respondent is hopeful that he will obtain custody of his daughter in the future, whether by voluntary action of his former wife or by other means.

* * * * *

Pursuant to the foregoing findings of fact, the Committee makes the following determination of issues:

I

Sections 2360 and 2361, Business and Professions Code of California, authorize the Board to take action against the holder of a physician's and surgeon's certificate who is guilty of unprofessional conduct.

II

Respondent is guilty of unprofessional conduct as defined in Section 2384, Business and Professions Code of California, by reason of his conviction of a violation of a statute of this state regulating narcotics or dangerous drugs.

III

Respondent is guilty of unprofessional conduct as defined in Section 2391.5, Business and Professions Code of California, by reason of his actions in violating, repeatedly, Sections 11165 and 11167, Health and Safety Code of California.

IV

Respondent is guilty of unprofessional conduct as defined in Section 2390, Business and Professions Code of California, by reason of his prescribing for and administering to himself a narcotic specified in Sections 11001 and 11002 Health and Safety Code of California.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The physician's and surgeon's certificate heretofore issued to Steven Joseph Capobianco, M.D., is revoked; provided, however, execution of the order of revocation is stayed and he is placed on probation to the Board of Medical Examiners for a period of five (5) years, upon the following terms and conditions:

(1) He shall obtain and remain under competent medical care of his own choosing, commencing on the effective date of this order and continuing until the termination of the period of probation.

(2) He shall report in person annually to the Board of Medical Examiners at its Los Angeles meeting bringing with him a written report from his physician respecting his progress and current condition under treatment. Reasonable notice of the time and place of report shall be a condition precedent to his duty to report to the Board.

(3) He shall comply with all laws of the United States, and of the State of California and its political subdivisions, and with the rules and regulations of the Board of Medical Examiners.

(4) He shall abstain completely from the use of narcotics in any form except when he is a patient of a licensed physician

and surgeon and the same is prescribed lawfully for his use.

In the event he does not comply with the terms and conditions of probation set forth above, and during the period of probation, the Board of Medical Examiners, after notice to him and the opportunity to be heard, may terminate the probation effective immediately or make such other order modifying or changing the terms of probation as the Board deems just and reasonable in its discretion.

Upon the expiration or termination of the period of probation the stay of the order of revocation shall become permanent and his license shall be restored permanently.

We hereby submit the foregoing which constitutes our Proposed Decision in the above-entitled matter, as a result of the hearing had before us, William Green, Hearing Officer of the State of California, presiding, on May 27, 1970, at Los Angeles, California, and recommend its adoption as the decision of the Board of Medical Examiners.

DATED: July 22, 1970

Clarence T. Halborg M.D.
CLARENCE T. HALBORG, M.D., Chairman
District Review Committee IV

WG:ej